

FIRST REGULAR SESSION

HOUSE BILL NO. 1152

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DUGGER.

2515H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 143.124 and 143.431, RSMo, and to enact in lieu thereof two new sections relating to taxation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 143.124 and 143.431, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 143.124 and 143.431, to read as follows:

143.124. 1. Other provisions of law to the contrary notwithstanding, for tax years ending on or before December 31, 2006, the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, "annuity, pension, retirement benefit, or retirement allowance" shall be defined as an annuity, pension, **retirement benefit**, or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described in the Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 state. An individual taxpayer shall only be allowed a maximum deduction equal to the amounts
18 provided under this section for each taxpayer on the combined return.

19 2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be
20 subtracted from Missouri adjusted gross income for that period, determined pursuant to section
21 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

22 (1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and
23 the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars;
24 or

25 (2) If the taxpayer's filing status is married filing combined and their combined Missouri
26 adjusted gross income is less than sixteen thousand dollars; or

27 (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri
28 adjusted gross income is less than eight thousand dollars.

29 3. For the tax years beginning on or after January 1, 1990, but ending on or before
30 December 31, 2006, there shall be subtracted from Missouri adjusted gross income, determined
31 pursuant to section 143.121, a maximum of the first six thousand dollars of retirement benefits
32 received by each taxpayer from sources other than privately funded sources, and for tax years
33 beginning on or after January 1, 1998, there shall be subtracted from Missouri adjusted gross
34 income, determined pursuant to section 143.121, a maximum of the first one thousand dollars
35 of any retirement allowance received from any privately funded source for tax years beginning
36 on or after January 1, 1998, but before January 1, 1999, and a maximum of the first three
37 thousand dollars of any retirement allowance received from any privately funded source for tax
38 years beginning on or after January 1, 1999, but before January 1, 2000, and a maximum of the
39 first four thousand dollars of any retirement allowance received from any privately funded source
40 for tax years beginning on or after January 1, 2000, but before January 1, 2001, and a maximum
41 of the first five thousand dollars of any retirement allowance received from any privately funded
42 source for tax years beginning on or after January 1, 2001, but before January 1, 2002, and a
43 maximum of the first six thousand dollars of any retirement allowance received from any
44 privately funded sources for tax years beginning on or after January 1, 2002. A taxpayer shall
45 be entitled to the maximum exemption provided by this subsection:

46 (1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and
47 the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

48 (2) If the taxpayer's filing status is married filing combined and their combined Missouri
49 adjusted gross income is less than thirty-two thousand dollars; or

50 (3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri
51 adjusted gross income is less than sixteen thousand dollars.

52 4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for
53 such taxpayer's filing status, as provided in subdivisions (1), (2) and (3) of subsection 3 of this
54 section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the
55 maximum exemption provided in subsection 3 of this section reduced by one dollar for every
56 dollar such taxpayer's income exceeds the ceiling for his or her filing status.

57 5. For purposes of this subsection, the term "maximum Social Security benefit available"
58 shall mean thirty-two thousand five hundred dollars for the tax year beginning on or after January
59 1, 2007, and for each subsequent tax year such amount shall be increased by the percentage
60 increase in the Consumer Price Index for All Urban Consumers, or its successor index, as such
61 index is defined and officially reported by the United States Department of Labor, or its
62 successor agency. For the tax year beginning on or after January 1, 2007, but ending on or before
63 December 31, 2007, there shall be subtracted from Missouri adjusted gross income, determined
64 pursuant to section 143.121, a maximum of an amount equal to the greater of: six thousand
65 dollars in retirement benefits received from sources other than privately funded sources, to the
66 extent such benefits are included in the taxpayer's federal adjusted gross income; or twenty
67 percent of the retirement benefits received from sources other than privately funded sources in
68 the tax year, but not to exceed the maximum Social Security benefit available for such tax year.
69 For the tax year beginning on or after January 1, 2008, but ending on or before December 31,
70 2008, there shall be subtracted from Missouri adjusted gross income, determined pursuant to
71 section 143.121, a maximum of an amount equal to the greater of: six thousand dollars in
72 retirement benefits received from sources other than privately funded sources, to the extent such
73 benefits are included in the taxpayer's federal adjusted gross income; or thirty-five percent of the
74 retirement benefits received from sources other than privately funded sources in the tax year, but
75 not to exceed the maximum Social Security benefit available for such tax year. For the tax year
76 beginning on or after January 1, 2009, but ending on or before December 31, 2009, there shall
77 be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a
78 maximum of an amount equal to the greater of: six thousand dollars in retirement benefits
79 received from sources other than privately funded sources, to the extent such benefits are
80 included in the taxpayer's federal adjusted gross income; or fifty percent of the retirement
81 benefits received from sources other than privately funded sources in the tax year, but not to
82 exceed the maximum Social Security benefit available for such tax year. For the tax year
83 beginning on or after January 1, 2010, but ending on or before December 31, 2010, there shall
84 be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a
85 maximum of an amount equal to the greater of: six thousand dollars in retirement benefits
86 received from sources other than privately funded sources, to the extent such benefits are
87 included in the taxpayer's federal adjusted gross income; or sixty-five percent of the retirement

88 benefits received from sources other than privately funded sources in the tax year, but not to
89 exceed the maximum Social Security benefit available for such tax year. For the tax year
90 beginning on or after January 1, 2011, but ending on or before December 31, 2011, there shall
91 be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a
92 maximum of an amount equal to the greater of: six thousand dollars in retirement benefits
93 received from sources other than privately funded sources, to the extent such benefits are
94 included in the taxpayer's federal adjusted gross income; or eighty percent of the retirement
95 benefits received from sources other than privately funded sources in the tax year, but not to
96 exceed the maximum Social Security benefit available for such tax year. For all tax years
97 beginning on or after January 1, 2012, there shall be subtracted from Missouri adjusted gross
98 income, determined pursuant to section 143.121, a maximum of an amount equal to one hundred
99 percent of the retirement benefits received from sources other than privately funded sources in
100 the tax year, but not to exceed the maximum Social Security benefit available for such tax year.

101

102 A taxpayer shall be entitled to the maximum exemption provided by this subsection:

103 (1) If the taxpayer's filing status is married filing combined, and their combined Missouri
104 adjusted gross income is equal to or less than one hundred thousand dollars; or

105 (2) If the taxpayer's filing status is single, head of household, qualifying widow(er), or
106 married filing separately, and the taxpayer's Missouri adjusted gross income is equal to or less
107 than eighty-five thousand dollars.

108 6. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for
109 such taxpayer's filing status, as provided in subdivisions (1) and (2) of subsection 5 of this
110 section, such taxpayer shall be entitled to an exemption, less any applicable reduction provided
111 under subsection 7 of this section, equal to the greater of zero or the maximum exemption
112 provided in subsection 5 of this section reduced by one dollar for every dollar such taxpayer's
113 income exceeds the ceiling for his or her filing status.

114 7. For purposes of calculating the subtraction provided in subsection 5 of this section,
115 such subtraction shall be decreased by an amount equal to any Social Security benefit exemption
116 provided under section 143.125.

117 8. For purposes of this section, any Social Security benefits otherwise included in
118 Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be
119 subtracted for purposes of other computations pursuant to this chapter, and are not to be
120 considered as retirement benefits for purposes of this section.

121 9. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply
122 during all tax years in which the federal Internal Revenue Code provides exemption levels for
123 calculation of the taxability of Social Security benefits that are the same as the levels in

124 subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the
125 calculation of the taxability of Social Security benefits are adjusted by applicable federal law or
126 regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall
127 be accordingly adjusted to the same exemption levels.

128 10. The portion of a taxpayer's lump sum distribution from an annuity or other retirement
129 plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this
130 chapter but subject to taxation under Internal Revenue Code Section 402 shall be taxed in an
131 amount equal to ten percent of the taxpayer's federal liability on such distribution for the same
132 tax year.

133 11. For purposes of this section, retirement benefits received shall not include any
134 withdrawals from qualified retirement plans which are subsequently rolled over into another
135 retirement plan.

136 12. The exemptions provided for in this section shall not affect the calculation of the
137 income to be used to determine the property tax credit provided in sections 135.010 to 135.035.

138 13. The exemptions provided for in this section shall apply to any annuity,
139 pension, **retirement benefit**, or retirement allowance as defined in subsection 1 of this section
140 to the extent that such amounts are included in the taxpayer's federal adjusted gross income and
141 not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of
142 Missouri taxable income. This subsection shall not apply to any individual who qualifies under
143 federal guidelines to be one hundred percent disabled.

144 14. In addition to all other subtractions authorized in this section, for all tax years
145 beginning on or after January 1, 2010, there shall be subtracted from Missouri adjusted gross
146 income, determined under section 143.121, any retirement benefits received by any taxpayer as
147 a result of the taxpayer's service in the Armed Forces of the United States, including reserve
148 components and the National Guard of this state, as defined in Sections 101(3) and 109 of Title
149 32, United States Code, and any other military force organized under the laws of this state, to the
150 extent such benefits are included in the taxpayer's federal adjusted gross income and not
151 otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of
152 Missouri taxable income. Such retirement benefits shall be subtracted as provided in the
153 following schedule:

154 (1) For the tax year beginning on January 1, 2010, fifteen percent of such retirement
155 benefits;

156 (2) For the tax year beginning on January 1, 2011, thirty percent of such retirement
157 benefits;

158 (3) For the tax year beginning on January 1, 2012, forty-five percent of such retirement
159 benefits;

160 (4) For the tax year beginning on January 1, 2013, sixty percent of such retirement
161 benefits;

162 (5) For the tax year beginning on January 1, 2014, seventy-five percent of such
163 retirement benefits;

164 (6) For the tax year beginning on January 1, 2015, ninety percent of such retirement
165 benefits;

166 (7) For tax years beginning on or after January 1, 2016, one hundred percent of such
167 retirement benefits.

143.431. 1. The Missouri taxable income of a corporation taxable under sections
2 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the
3 modifications specified in subsections 2 to 4 of this section, as is derived from sources within
4 Missouri as provided in section 143.451. The tax of a corporation shall be computed on its
5 Missouri taxable income at the rates provided in section 143.071.

6 2. There shall be added to or subtracted from federal taxable income the modifications
7 to adjusted gross income provided in section 143.121, with the exception of subdivision (5) of
8 subsection 2 of section 143.121, and the applicable modifications to itemized deductions
9 provided in section 143.141. There shall be subtracted the federal income tax deduction
10 provided in section 143.171. There shall be subtracted, to the extent included in federal taxable
11 income, corporate dividends from sources within Missouri.

12 3. (1) If an affiliated group of corporations files a consolidated income tax return for the
13 taxable year for federal income tax purposes and fifty percent or more of its income is derived
14 from sources within this state as determined in accordance with section 143.451, then it may
15 elect to file a Missouri consolidated income tax return. The federal consolidated taxable income
16 of the electing affiliated group for the taxable year shall be its federal taxable income.

17 (2) So long as a federal consolidated income tax return is filed, an election made by an
18 affiliated group of corporations to file a Missouri consolidated income tax return may be
19 withdrawn or revoked only upon substantial change in the law or regulations adversely changing
20 tax liability under this chapter, or with permission of the director of revenue upon the showing
21 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated
22 group, it may not file a Missouri consolidated income tax return for five years thereafter, except
23 with the approval of the director of revenue, and subject to such terms and conditions as he may
24 prescribe.

25 (3) No corporation which is part of an affiliated group of corporations filing a Missouri
26 consolidated income tax return shall be required to file a separate Missouri corporate income tax
27 return for the taxable year.

28 (4) For each taxable year an affiliated group of corporations filing a federal consolidated
29 income tax return does not file a Missouri consolidated income tax return, for purposes of
30 computing the Missouri income tax, the federal taxable income of each member of the affiliated
31 group shall be determined as if a separate federal income tax return had been filed by each such
32 member.

33 (5) The director of revenue may prescribe such regulations not inconsistent with the
34 provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated
35 group of corporations making a Missouri consolidated income tax return, and of each corporation
36 in the group, before, during, and after the period of affiliation, may be returned, determined,
37 computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri
38 taxable income derived from sources within this state and in order to prevent avoidance of such
39 tax liability.

40 4. If a net operating loss deduction is allowed for the taxable year, there shall be added
41 to federal taxable income the amount of the net operating loss modification for each loss year
42 as to which a portion of the net operating loss deduction is attributable. As used in this
43 subsection, the following terms mean:

44 (1) "Loss year", the taxable year in which there occurs a federal net operating loss that
45 is carried back or carried forward in whole or in part to another taxable year;

46 (2) "Net addition modification", for any taxable year, the amount by which the sum of
47 all required additions to federal taxable income provided in this chapter, except for the net
48 operating loss modification, exceeds the combined sum of the amount of all required subtractions
49 from federal taxable income provided in this chapter;

50 (3) "Net operating loss deduction", a net operating loss deduction allowed for federal
51 income tax purposes under Section 172 of the Internal Revenue Code of 1986, as amended, or
52 a net operating loss deduction allowed for Missouri income tax purposes under [paragraph (d)]
53 **subdivision (4)** of subsection 2 of section 143.121, but not including any net operating loss
54 deduction that is allowed for federal income tax purposes but disallowed for Missouri income
55 tax purposes under paragraph (d) of subsection 2 of section 143.121;

56 (4) "Net operating loss modification", an amount equal to the lesser of the amount of the
57 net operating loss deduction attributable to that loss year or the amount by which the total net
58 operating loss in the loss year is less than the sum of:

59 (a) The net addition modification for that loss year; and

60 (b) The cumulative net operating loss deductions attributable to that loss year allowed
61 for the taxable year and all prior taxable years.

62 5. For all tax years ending on or after July 1, 2002, federal taxable income may be a
63 positive or negative amount. Subsection 4 of this section shall be effective for all tax years with

64 a net operating loss deduction attributable to a loss year ending on or after July 1, 2002, and the
65 net operating loss modification shall only apply to loss years ending on or after July 1, 2002.

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